

AMENDED IN SENATE APRIL 12, 2012

SENATE BILL

No. 1343

Introduced by Senator Emmerson

February 24, 2012

An act to amend Section ~~6380 of the Family Code~~, 3451 of the Penal Code, relating to ~~domestic violence prevention~~ postrelease supervision.

LEGISLATIVE COUNSEL'S DIGEST

SB 1343, as amended, Emmerson. ~~Domestic violence prevention: California Law Enforcement Telecommunications System. Postrelease community supervision: local law enforcement notification.~~

Under existing law, a felony where the term is not specified in the underlying offense shall be punishable by a term of imprisonment in a county jail for 16 months or 2 or 3 years. Existing law requires, except for persons serving a prison term for serious or violent crimes, among other offenses, all persons released from prison on and after October 1, 2011, or whose sentence has been deemed served after serving a prison term for a felony, to, upon release from prison and for a period not exceeding 3 years immediately following release, be subject to community supervision provided by a county agency designated by each county's board of supervisors.

This bill would require a county agency implementing postrelease supervision to notify all relevant local law enforcement agencies of the person's residence in the area and to ensure that local summary criminal history information is available to all local law enforcement officers.

By establishing additional requirements applicable to county agencies, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

~~Existing law requires the transmission of a copy of each civil harassment, workplace violence, or elder or dependent adult abuse restraining order to specified law enforcement agencies within one business day. Among these required transmissions, existing law requires any law enforcement officer who served a protective order to submit the proof of service directly into the Department of Justice Domestic Violence Restraining Order System. Existing law requires the Department of Justice to maintain a statewide telecommunications system, entitled the California Law Enforcement Telecommunications System, and a Domestic Violence Restraining Order System, for use by law enforcement agencies.~~

~~This bill would make technical, nonsubstantive changes to these provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 3451 of the Penal Code is amended to
2 read:
3 3451. (a) Notwithstanding any other law and except for persons
4 serving a prison term for ~~any~~ a crime described in subdivision (b),
5 all persons released from prison on and after October 1, 2011, or,
6 whose sentence has been deemed served pursuant to Section 2900.5
7 after serving a prison term for a felony shall, upon release from
8 prison and for a period not exceeding three years immediately
9 following release, be subject to community supervision provided
10 by a county agency designated by each county's board of
11 supervisors which is consistent with evidence-based practices,
12 including, but not limited to, supervision policies, procedures,
13 programs, and practices demonstrated by scientific research to
14 reduce recidivism among individuals under postrelease supervision.

(b) This section shall not apply to any person released from prison after having served a prison term for any of the following:

(1) A serious felony described in subdivision (c) of Section 1192.7.

(2) A violent felony described in subdivision (c) of Section 667.5.

(3) A crime for which the person was sentenced pursuant to paragraph (2) of subdivision (e) of Section 667 or paragraph (2) of subdivision (c) of Section 1170.12.

(4) Any crime where the person eligible for release from prison is classified as a High Risk Sex Offender.

(5) Any crime where the person is required, as a condition of parole, to undergo treatment by the State Department of Mental Health pursuant to Section 2962.

(c) (1) Postrelease supervision under this title shall be implemented by a county agency according to a postrelease strategy designated by each county's board of supervisors.

(2) The Department of Corrections and Rehabilitation shall inform every prisoner subject to the provisions of this title, upon release from state prison, of the requirements of this title and of his or her responsibility to report to the county agency responsible for serving that inmate. The department shall also inform persons serving a term of parole for a felony offense who are subject to this section of the requirements of this title and of his or her responsibility to report to the county agency responsible for serving that parolee. Thirty days prior to the release of any person subject to postrelease supervision by a county, the department shall notify the county of all information that would otherwise be required for parolees under subdivision (e) of Section 3003.

(3) *A county agency implementing postrelease supervision pursuant to this section shall notify all relevant local law enforcement agencies of the person's residence in the area and shall ensure that local summary criminal history information is available to all local law enforcement officers.*

SEC. 2. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

1 SECTION 1. ~~Section 6380 of the Family Code is amended to~~
2 ~~read:~~

3 ~~6380. (a) Each county, with the approval of the Department~~
4 ~~of Justice, shall, by July 1, 1996, develop a procedure, using~~
5 ~~existing systems, for the electronic transmission of data, as~~
6 ~~described in subdivision (b), to the Department of Justice. The~~
7 ~~data shall be electronically transmitted through the California Law~~
8 ~~Enforcement Telecommunications System (CLETS) of the~~
9 ~~Department of Justice by law enforcement personnel, or with the~~
10 ~~approval of the Department of Justice, court personnel, or another~~
11 ~~appropriate agency capable of maintaining and preserving the~~
12 ~~integrity of both the CLETS and the Domestic Violence Restraining~~
13 ~~Order System, as described in subdivision (c). Data entry is~~
14 ~~required to be entered only once under the requirements of this~~
15 ~~section, unless the order is served at a later time. A portion of all~~
16 ~~fees payable to the Department of Justice under subdivision (a) of~~
17 ~~Section 1203.097 of the Penal Code for the entry of the information~~
18 ~~required under this section, based upon the proportion of the costs~~
19 ~~incurred by the local agency and those incurred by the Department~~
20 ~~of Justice, shall be transferred to the local agency actually~~
21 ~~providing the data. All data with respect to criminal court protective~~
22 ~~orders issued, modified, extended, or terminated under subdivision~~
23 ~~(g) of Section 136.2 of the Penal Code, and all data filed with the~~
24 ~~court on the required Judicial Council forms with respect to~~
25 ~~protective orders, including their issuance, modification, extension,~~
26 ~~or termination, to which this division applies pursuant to Section~~
27 ~~6221, shall be transmitted by the court or its designee within one~~
28 ~~business day to law enforcement personnel by either of the~~
29 ~~following methods:~~

30 ~~(1) Transmitting a physical copy of the order to a local law~~
31 ~~enforcement agency authorized by the Department of Justice to~~
32 ~~enter orders into CLETS.~~

33 ~~(2) With the approval of the Department of Justice, entering the~~
34 ~~order into CLETS directly.~~

35 ~~(b) Upon the issuance of a protective order to which this division~~
36 ~~applies pursuant to Section 6221, or the issuance of a temporary~~
37 ~~restraining order or injunction relating to harassment, unlawful~~
38 ~~violence, or the threat of violence pursuant to Section 527.6, 527.8,~~
39 ~~or 527.85 of the Code of Civil Procedure, or the issuance of a~~
40 ~~criminal court protective order under subdivision (g) of Section~~

1 ~~136.2 of the Penal Code, or the issuance of a juvenile court~~
2 ~~restraining order related to domestic violence pursuant to Section~~
3 ~~213.5, 304, or 362.4 of the Welfare and Institutions Code, or the~~
4 ~~issuance of a protective order pursuant to Section 15657.03 of the~~
5 ~~Welfare and Institutions Code, or upon registration with the court~~
6 ~~clerk of a domestic violence protective or restraining order issued~~
7 ~~by the tribunal of another state, as defined in Section 6401, and~~
8 ~~including any of the foregoing orders issued in connection with~~
9 ~~an order for modification of a custody or visitation order issued~~
10 ~~pursuant to a dissolution, legal separation, nullity, or paternity~~
11 ~~proceeding, the Department of Justice shall be immediately notified~~
12 ~~of the contents of the order and the following information:~~

13 ~~(1) The name, race, date of birth, and other personal descriptive~~
14 ~~information of the respondent, as required by a form prescribed~~
15 ~~by the Department of Justice.~~

16 ~~(2) The names of the protected persons.~~

17 ~~(3) The date of issuance of the order.~~

18 ~~(4) The duration or expiration date of the order.~~

19 ~~(5) The terms and conditions of the protective order, including~~
20 ~~stay-away, no-contact, residency exclusion, custody, and visitation~~
21 ~~provisions of the order.~~

22 ~~(6) The department or division number and the address of the~~
23 ~~court.~~

24 ~~(7) Whether or not the order was served upon the respondent.~~

25 ~~(8) The terms and conditions of any restrictions on the ownership~~
26 ~~or possession of firearms.~~

27 ~~All available information shall be included. However, the~~
28 ~~inability to provide all categories of information shall not delay~~
29 ~~the entry of the information available.~~

30 ~~(e) The information conveyed to the Department of Justice shall~~
31 ~~also indicate whether the respondent was present in court to be~~
32 ~~informed of the contents of the court order. The respondent's~~
33 ~~presence in court shall provide proof of service of notice of the~~
34 ~~terms of the protective order. The respondent's failure to appear~~
35 ~~shall also be included in the information provided to the~~
36 ~~Department of Justice.~~

37 ~~(d) (1) Within one business day of service, any law enforcement~~
38 ~~officer who served a protective order shall submit the proof of~~
39 ~~service directly into the Department of Justice Domestic Violence~~
40 ~~Restraining Order System, including his or her name and law~~

1 enforcement agency, and shall transmit the original proof of service
2 form to the issuing court.

3 ~~(2) Within one business day of receipt of proof of service by a~~
4 ~~person other than a law enforcement officer, the clerk of the court~~
5 ~~shall submit the proof of service of a protective order directly into~~
6 ~~the Department of Justice Domestic Violence Restraining Order~~
7 ~~System, including the name of the person who served the order.~~
8 ~~If the court is unable to provide this notification to the Department~~
9 ~~of Justice by electronic transmission, the court shall, within one~~
10 ~~business day of receipt, transmit a copy of the proof of service to~~
11 ~~a local law enforcement agency. The local law enforcement agency~~
12 ~~shall submit the proof of service directly into the Department of~~
13 ~~Justice Domestic Violence Restraining Order System within one~~
14 ~~business day of receipt from the court.~~

15 ~~(e) The Department of Justice shall maintain a Domestic~~
16 ~~Violence Restraining Order System and shall make available to~~
17 ~~court clerks and law enforcement personnel, through computer~~
18 ~~access, all information regarding the protective and restraining~~
19 ~~orders and injunctions described in subdivision (b), whether or not~~
20 ~~served upon the respondent.~~

21 ~~(f) If a court issues a modification, extension, or termination of~~
22 ~~a protective order, it shall be on forms adopted by the Judicial~~
23 ~~Council of California and that have been approved by the~~
24 ~~Department of Justice, and the transmitting agency for the county~~
25 ~~shall immediately notify the Department of Justice, by electronic~~
26 ~~transmission, of the terms of the modification, extension, or~~
27 ~~termination.~~

28 ~~(g) The Judicial Council shall assist local courts charged with~~
29 ~~the responsibility for issuing protective orders by developing~~
30 ~~informational packets describing the general procedures for~~
31 ~~obtaining a domestic violence restraining order and indicating the~~
32 ~~appropriate Judicial Council forms. The informational packets~~
33 ~~shall include a design, that local courts shall complete, that~~
34 ~~describes local court procedures and maps to enable applicants to~~
35 ~~locate filing windows and appropriate courts, and shall also include~~
36 ~~information on how to return proofs of service, including mailing~~
37 ~~addresses and fax numbers. The court clerk shall provide a fee~~
38 ~~waiver form to all applicants for domestic violence protective~~
39 ~~orders. The court clerk shall provide all Judicial Council forms~~
40 ~~required by this chapter to applicants free of charge. The~~

1 informational packet shall also contain a statement that the
2 protective order is enforceable in any state, as defined in Section
3 6401, and general information about agencies in other jurisdictions
4 that may be contacted regarding enforcement of an order issued
5 by a court of this state.

6 (h) For the purposes of this part, “electronic transmission” shall
7 include computer access through the California Law Enforcement
8 Telecommunications System (CLETS).

9 (i) Only protective and restraining orders issued on forms
10 adopted by the Judicial Council of California and that have been
11 approved by the Department of Justice shall be transmitted to the
12 Department of Justice. However, this provision shall not apply to
13 a valid protective or restraining order related to domestic or family
14 violence issued by a tribunal of another state, as defined in Section
15 6401. Those orders shall, upon request, be registered pursuant to
16 Section 6404.